

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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GARY DIAZ,

Plaintiff,

v.

UNIQUE MANAGEMENT
SERVICES, INC.,

Defendant.

2:11-cv-01680-KJD -VCF

REPORT AND
RECOMMENDATION

Before the court the matter of *Diaz v. Unique Management Services, Inc.* (Case No. 2:11-cv-01680-KJD -VCF).

On October 18, 2011, plaintiff filed a motion/application to proceed *in forma pauperis* (#1). On November 1, 2011, the court issued a report and recommendation to deny the motion/application, because plaintiff “has the ability to pay the fees associated with bringing this action.” (#2). Plaintiff filed an objection on November 14, 2011. (#3). On November 28, 2011, defendant filed an answer to the complaint. (#4). The court did not order the Marshals to serve the defendant with the complaint, however, and nothing in the record demonstrates how the defendant received a copy of the complaint. On January 24, 2012, the court issued an order adopting and affirming the report and recommendation to deny plaintiff’s motion/application to proceed *in forma pauperis*. (#8).

Plaintiff filed a second motion/application to proceed *in forma pauperis* on February 9, 2012. (#9). On March 2, 2012, the court held a hearing on the motion/application. (#15). The court denied plaintiff’s motion/application (#9), and ordered plaintiff to pay the filing fee within 15 days from the date of the hearing, March 19, 2012. *Id.* In the alternative, the court stated that the parties could

1 stipulate to dismiss the case without prejudice for plaintiff to file a new complaint. *Id.* The court stayed
2 the case until March 19, 2012. *Id.* As of the date of this order, the plaintiff has not paid the filing fee
3 and the parties have not filed a stipulation to dismiss the case.

4 Pursuant to 28 U.S.C. § 1914(a), a filing fee of \$350.00 is required to commence a civil action
5 in federal district court. Since plaintiff has not paid the filing fee, plaintiff's complaint should be
6 dismissed.

7 **RECOMMENDATION**

8 Based on the foregoing, it is the recommendation of the undersigned Magistrate Judge that *Diaz*
9 *v. Unique Management Services, Inc.* (Case No. 2:11-cv-01680-KJD -VCF) be DISMISSED without
10 prejudice.

11 DATED this 29th day of March, 2012.



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13 **CAM FERENBACH**
14 **UNITED STATES MAGISTRATE JUDGE**
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